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Programming EU funds in Bulgaria: Challenges, Opportunities and the Role of Civil Society

Desislava Hristova Kurzydowski*

Abstract

While expectations were high for Bulgaria's EU membership, it has been marked by numerous domestic challenges. This article explores the application of the principle of partnership in Bulgaria in programming EU funds for 2007-2013 as a litmus test for the capacity of the civil society and the preparedness of the state's institutions for full-fledged membership. The article displays evidence that unsuitable adaptation and the remnants of the previous institutional establishment filter the EU leverage in the country. Furthermore, the article maps the role of civil society organisations in the process and identifies the main challenges and opportunities for their inclusion.¹

Keywords: EU Structural funds, principle of partnership, Europeanisation, civil society.

Introduction

Despite the undeniably positive effects of Bulgaria's membership in the EU, various issues surround the country's integration and its ability to take full advantage of all the opportunities. The successful use of EU funds (Bechev, 2010) has been one of the problematic issues. Even though the rate of absorption has significantly improved (40.81% by 30 April 2013²), the process of planning and programming, the procedures for the inclusion of various stakeholders, the selection of beneficiaries and the implementation have been subject to criticism. The over-centralisation and, to a certain degree, the monopolisation of the process by the structures of the executive power in Bulgaria inhibited CSOs (civil society organisations) from taking an active part in both programming (priority setting) and implementation.

The drafting of the National Strategic Reference Framework and the Operational Programmes is believed to have only formally included the partners in the process. Data from the Civil Society Index for Bulgaria 2008-2010 show that most of the organisations were left out of the process of programming the main strategic documents related to the EU funds 2007-2013, which raised questions about the ownership of the process, but also about the implications on the sustainable use of the funds and their efficiency. Only 6.4% of CSOs reported to have participated in an Operational Programme Monitoring Committee; 7% of the CSOs say that they took part in the drafting of the National Strategic Reference Framework; 9% for the objectives of the Operational Programmes; around 11.6% for the National Development Plan.

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1 The paper builds upon empirical data from a project of Open Society Institute-Sofia 2010-2011 through in-depth interviews and focus groups 'Analysis and Assessment of the Application of the Partnership Principle in the programming of the EU funds in Bulgaria for the 2007-2013 period', the Bulgarian Civil Society Index data and on a research project of the European Studies Department of Sofia University *St. Kliment Ohridski* 'Bulgarian in the EU: the Experience of the First Years', section 4: 'The Public Partnership – a Condition for Institutional Efficiency and Fight against Corruption' led by Prof. Georgi Dimitrov.

2 More information can be found at: www.eufunds.bg

The limited level of inclusion of CSOs in the programming and planning of the EU funds in Bulgaria raises several questions in regard to the transparency and validity of the process of programming, the capacity and preparedness of the various stakeholders, and the application of the principle of partnership through including the CSOs. Furthermore, this limited inclusion outlines issues of consideration concerning the government-CSO relations and the possibilities for sustainable civil dialogue in policy-making in Bulgaria.

There is a growing body of research on the contentious issues surrounding the application of the principle of partnership in EU member states (Bauer, 2002; Nanetti, Rato, & Rodrigues, 2004; Milio, 2007; European Citizen Action Service (ECAS), 2005, 2010). The aim of this article, however, is to provide insight into the application of the principle of partnership in Bulgaria as a litmus test for the ability of the government and the CSOs in a post-communist member state to partner effectively and cooperate in policy-making. The principle of partnership takes this a step further, as it is also part of the EU conditionality palette. Therefore, the analysis of this principle in Bulgaria provides an overview of how the process of democratisation coupled with costs of domestic transformation unfolds as a response to Europeanisation. The article answers the following research questions:

- What are the main challenges of domestic transformation and democratisation in Bulgaria in the context of the application of the principle of partnership?
- What are the mechanisms for CSO-government relations and have they provided a functional background for the successful application of the principle of partnership in order to ensure a smooth process of programming and implementation of the EU funds?
- What are the implications for the ownership of the priorities of the EU funds by the various stakeholders?
- What are the implications for the development of civil society and the functionality of civil dialogue?
- What are the lessons learnt for the upcoming programming period of 2014-2020?

In order to ensure the validity of the findings and conclusions, the article employs the following: secondary data on the state of civil society development in Bulgaria, involvement in the EU funds and CSOs-government relations, analysis of legislative and strategic documents related to the programming of EU funds in Bulgaria, minutes of working meetings, focus groups on regional level (process of planning on NUTS (Nomenclature of territorial units for statistics) and semi-structured interviews with participants in the process of programming for the 2007-2013 period. The research was conducted as part of a policy project of the Open Society Institute – Sofia. This project builds on the team members' experience as part of the programming process and further identifies the main stages, procedures and stakeholders in the programming phase of the EU funds in Bulgaria for the 2007-2013 period. Based on the available lists of participants who were involved in the programming of the National Development Plan and the Operational programmes in 2006 (including 77 ministries, agencies and administrative bodies and structures, and 16 economic and social partners and CSOs³), the National Strategic

³ The distinction between the economic and social partners and CSOs is deliberately singled out. As further outlined in the article, the economic and social partners had easier and more secured access to the process of programming and later on in the Monitoring Committees. They are also a part of the institutionalised Economic and Social Council, founded in 2001, which includes representatives of all employers' organisations, all trade unions, business associations, and other national represented organisations. The authenticity of this form of civil dialogue is somewhat compromised. Most of the organisations are considered quasi-civic and their representativeness is also questioned. On the other hand, the CSOs had another trajectory of inclusion and participation in the process.

Reference Framework⁴ and the FORUM meetings⁵, the main actors were identified under the groups of the political representatives in the government at that time, the expert level in the administration and the main economic and social partners and CSOs. Given the fact that the research was conducted 4 years after the programming phase, a lot of the administrative staff was difficult to find and contact. The main political figures, institutions, economic and social partners and CSOs were identified and letters and emails were sent to 33 contacts on a political and expert level of the administration, as well as to 20 economic and social partners and CSOs. Out of this, 14 interviews (some of the interviews were with more than one respondent) were conducted with 3 political representatives, 6 representatives at an expert level from the administration, and 7 CSOs. After repeated attempts to arrange interviews with the economic and social partners, two representatives responded, but in the end declined to be interviewed. In addition, the experts involved in the project who have taken part in the process of programming shared their experience during working meetings. The previous were utilised to identify the main stages, the respective procedures and the mechanisms for including the various stakeholders in the process of programming the national strategic documents for the 2007-2013 period. The interview sample was structured to encompass the experience of the respondent; the view on the process and its main stages, legal documents, procedures and stakeholders; the importance of programming as a stage of priority-setting; assessing the principle of partnership and the available mechanisms for the involvement of CSOs; recommendations and a view on the necessary capacity and preparation for successful programming.

The article is structured as follows: the first part will outline a short review on the theory of Europeanisation and its interaction with institutional change in a post-communist setting. The second part focuses on the historical evolution of the principle of partnership as part of the EU regional policy, as well as of its implications for better governance. The third part analyses the empirical data on the application of the principle of partnership in programming the EU funds in Bulgaria for the period of 2007-2013. The article will also identify the factors that filter EU leverage in this field and will discuss the potential of the principle of partnership as an agent of transformation in Bulgaria.

Europeanisation and domestic compliance

In this article, Europeanisation is understood as the process of “construction, diffusion, institutionalization of formal and informal rules, procedures, policy paradigms, styles, ‘ways of doing things’ and shared beliefs and norms which are first defined and consolidated in the making of EU decisions and then incorporated in the logic of domestic discourse, identities, political structures and public policies” (Radaelli, 2000; Featherstone & Radaelli, 2003, p.30). This wide definition provides a framework for exploring the domestic dynamics during the process of accession and EU integration. It emphasises the two dimensions of the process – the EU supranational governance and the national policy-making and, thus, accommodates the process of adaptation of the actors, processes, norms and policy-making on a national level.

4 The list of participants annexed to the National Strategic Reference Framework mentions the main ministries and administrative bodies, together with the main economic and social partners and CSOs, however, without providing specific contact details.

5 The FORUM approach was used as a way to gather all the relevant stakeholders to discuss the National Strategic Reference Framework and the Operational Programmes. It was supported by the Swiss Agency for Development and Co-operation (SDC), aiming to assist the Agency for Economic Analysis and Forecasting (AEAF) for the organisation of Consensus Fora on Operational Programmes (OP) Priorities for the National Development Plan elaboration process. Although the format is considered efficient, the participants pointed to its limitation in scope and time as there were 5 sessions altogether (one per each OP) and there was not enough time and resources to effectively discuss the issues, and lots of the stakeholders felt they were not informed well in advance and did not participate on an equal footing. Furthermore, the proposals and recommendations that were discussed at the Forum and sent to the Ministry of Finance did not receive any feedback or follow-up.

Europeanisation depends on the level of convergence and convenience between the processes, policies, and institutions on the European level, on the one hand, and the processes, policies, and institutions on the domestic level, on the other (Cowles, Caporaso & Risse, 2001; Bache, George & Bulmer, 2011). National institutions are required to change their policies and even institutional structures in response to Europeanisation. Sociological institutionalism would expect that the more institutional structures at the European and domestic levels look alike (structural isomorphism), the less adaptational pressure member states should face (Powell & DiMaggio, 1991). Europeanisation, however, can cause *institutional misfit*, challenging domestic rules and procedures and the collective understandings attached to them (Börzel & Risse, 2003). In spite of the Europeanisation process playing a key role in the transformation of the domestic systems of governance, domestic institutions and particular features of the pre-existing national and local institutional infrastructure are subject to adaptation. The significance of the pre-existing institutional infrastructure has been also demonstrated by the social, economic and political transitions of the post-communist states (Offe, 1996; European Commission, 2003).

Börzel and Risse (2003, p.69) distinguish three degrees of domestic change:

- (1) Absorption: Member states incorporate EU policies into their programmes and domestic structure but without modifying existing processes, policies, and institutions, thus, the degree of domestic change is low.
- (2) Accommodation: Member states accommodate Europeanisation pressures by adapting existing processes, policies, and institutions without changing their essential features and the underlying collective understanding of them. The degree of domestic change is modest and a way of doing this is by 'patching up' existing policies and institutions with new ones.
- (3) Transformation: Member states need to replace existing policies, processes, and institutions with new, substantially different ones, or alter existing ones to the extent that their essential features and/or the underlying collective understanding are fundamentally changed. Thus, the degree of domestic change is high.

EU integration through transformation aims at a coherent, qualitatively new change of the state of policy-making. It creates serious pressure on the domestic actors, processes and procedures. In order to explain the point of departure for the degree of change in Bulgaria, the contextual factors and legacies need to be taken into account.

The extent of the regime transformation after 1989 in Bulgaria presupposes a dramatic overhaul of the existing institutions and agents, mindset, rules of procedure and governance that represent the pillars of democracy consolidation (Linz & Stepan, 1996, p.10). The Central and Eastern post-communist candidate states had to confront higher challenges of transposition compared to previous enlargements. The formulation of the conditions was ambivalent in certain domains, 'thin', lacking precise regulation (like in regional policy (Hughes, Sasse, & Gordon, 2004)) and subject to interpretation and interference from different actors on the national level. These actors shaped the domestic scene and filtered the process of Europeanisation.

Several factors define the contextual background in Bulgaria, which are determinant for mediating the process of domestic change and finding the precise degree of 'fit':

- Hierarchical type of communication and administrative culture.
- The inherited over-centralisation creates complex hybrid structures with fragmented functions. There is no coherent strategy of institutional change, thus, leaving it subject to patchwork and to a top-down process. The main management structures and decision making is concentrated in the executive branch and is dependent on the personalities, rather than on uniform rules.
- Lack of civil society actors and sustainable civil society-government dialogue that leaves the policy process dependent on the 'good will' of the administration (Bulgarian Center for Non-profit Law (BCNL), 2009).

- Weak administrative and institutional capacity, corruption, problems with respecting the rule of law and questions surrounding judicial independence (Cooperation and Verification Mechanism Commission Reports on Bulgaria and Romania⁶; Transparency International 2008-2012; Center for the Study of Democracy, 2009, 2010).
- The persistent trajectory of institutional change: issues of tensions between informal constraints and formal rules, and their implications on domestic transformation: adoption of EU rules and new modes of governance that build upon the remnants of a communist institutional culture of over-centralisation (North, 1990; Kabakchieva, 2004, 2007; Dimitrov, 2004, 2008; Dimitrov, Danchev & Karamfilova, 2008).
- Specific resistance in the institutional character of the post-communist setting as a principle of the state structure and mechanism of function. This shapes a specific manner of institutional behaviour that entails: 'encapsulation of the institutional structures'; 'feudalisation of the directorates'; 'a lack of horizontal linkages and communication'; 'a lack of taking responsibility'; 'problems with professionalism'; 'a lack of institutional memory and continuity'; 'a lack of predictability' (Dimitrov, 2004; Dimitrov, Danchev & Karamfilova, 2008).

The degree of change, however, is conditioned by the path dependencies of the political culture and practices (Stark & Bruszt, 1998). However, the misfit is a necessary but not a sufficient requirement if one is expected to see domestic change in response to the adaptation pressures from the EU (Borzel & Risse, 2003). Institutional change is determined by the final outcome of this interaction, which characterises the development and functioning of institutions (North, 1990; Kabakchieva, 2007; Dimitrov, 2008; Dimitrov, Danchev & Karamfilova, 2008). From the short overview of the domestic factors, it is evident that the degree of change that Bulgaria experiences in its integration to the EU also includes a significant *institutional misfit* that requires changes in policies and procedures, as well as replacing old rules and institutions or designing completely new ones. If we apply the new institutionalist typology, the transformation is conditioned by the interaction between the formal rules (the EU requirements, policy, procedures) and the informal constraints on the domestic level in Bulgaria, see Table 1.

The interactions between the formal rules and the informal constraints have serious implications for the country's accession and integration into the EU. The successful transformation depends on the ability of Bulgaria and its institutions to transform and reconcile this misfit and make the formal requirements operative. This has proven particularly challenging in the implementation of the EU funds. The complex nature of the process of preparation has put serious adaptational pressure on the institutional structures, mechanisms and decision-making procedures in the country. Although the pre-accession programming of PHARE, ISPA and SAPARD was expected to assist the candidate states in the process of transformation, in the case of Bulgaria, this proved to be problematic (Kabakchieva, 2007; Nikolova, 2007; Hristova, 2010). Instead of transformation, the institutions and the respective procedures were mimicking change and predominantly applying the requirements only formally. Recent reports have raised questions about the rent-seeking opportunities, the misuse and misappropriation of funds and 'the illusion of inclusion' of various stakeholders, coupled with the concentration of power in the executive branch (Center for the Study of Democracy, 2009, 2010; Harvey, 2004; Hristova-Kurzydłowski, 2011). The background situation in Bulgaria seems to display similar evidence to Greece's mediating actors (Getimis & Grigoriadou, 2004). Instead of decentralising, the over-centralised post-communist state strengthened its role and dominant position through the Ministry of Finance, leaving limited roles for other actors (Yanakiev, 2010) and making the executive government the main winner of the structural funds changes.

⁶ Reports from 2008-2012 can be found from: http://ec.europa.eu/cvm/progress_reports_en.htm

Table 1: Informal constraints and formal rules, Bulgaria

INFORMAL CONSTRAINTS (BULGARIA)	FORMAL RULES (EU)
<ul style="list-style-type: none"> - Post-communist administrative culture - Over-centralisation of policy and decision making - Lack of horizontal linkages in the administration and personalised bureaucracy - Lack of predictability of the policy process - Formalistic approach to CSO-government partnership 	<ul style="list-style-type: none"> - Administrative and institutional capacity - Decentralisation of decision making and deconcentration of power - Impersonalised bureaucracy subject to rules - Predictable policy-making process - Good governance and participation - Inclusion of stakeholders

Source: Author's compilation

In order to assess how the application of the principle of partnership happened in Bulgaria and what challenges it confronted, the next section will explore the foundation and the concepts behind the development and evolution of this principle. Moreover, it will analyse the potential factors that facilitate or inhibit its application as a starting point in exploring how the process took place in Bulgaria.

The principle of partnership. The application of the principle of partnership in Bulgaria

Evolution of the principle of partnership

The principle of partnership has been in existence for almost 24 years and has generated a significant body of academic discussions on its function, its impact and added value. The principle of partnership has been seen as the anchor of multi-level governance (Bruszt, 2008). 'Partnership' can be understood as a policy-making device that allows public authorities and societal actors to trade access, information and commitment, based on a 'multilevel administrative core' that stresses local 'executive' involvement and that, in particular, requires the participation of the Commission in all policy stages and its presence at all policy-relevant layers of government during implementation. Furthermore, recently 'partnership' has been viewed as a structural principle for policy-making in the EU (Bauer 2002, p.773).

Article 4 of the 1988 Framework Regulation, Council Regulation (EEC) No 2052 (Council of the European Communities, 1988) defined 'partnership' as follows: "Community operations shall be such as to complement or contribute to corresponding national operations. They shall be established through close consultations between the Commission, the Member State concerned and the competent authorities designated by the latter at national, regional, local or other level, with each party acting as a partner in pursuit of a common goal. These consultations are hereinafter referred to as the 'partnership'. The partnership shall cover the preparation, financing, monitoring and assessment of operations."

With the regional policy reforms of 1993 Council Regulation (EEC) No 2081 (Council of the European Communities, 1993), the definition was developed further to include: "including, within the framework of each Member State's national rules and current practices, the economic and social partner, designated by the Member State at national, regional, local or other level /.../". Gradually, partnership takes the form of a wider consultation of all the relevant bodies, as seen in Article 8 of Council Regulation (EC) No 1260, which states that in designating the most representative partnership at the national, regional, local or any other level, the Member State shall create a wide and effective

association of all the relevant bodies, according to national rules and practice, taking account of the need to promote equality between men and women and sustainable development through the integration of environmental protection and improvement requirements. (Council of the European Communities, 1999)

Along the vertical axis of the principle, all partnerships should include representatives of the European Commission and the Member States. All other competent authorities and bodies are included along the horizontal axis. The Member State authorities are able to determine how the relevant stakeholders are to be involved in the process according to their internal mechanisms for decision and policy making.

Based on the European Commission guidelines, the partnership principle (Ministry of Finance of Republic of Bulgaria, 2004) is considered to target:

- (1) Better planning, development of an overall action and implementation strategy.
- (2) Better implementation with the objective of ensuring coordinated action.
- (3) Increasing the capacity for regional and local development; better targeting of programme objectives and considering the needs at all levels.

Following further demands for the inclusion of a wider circle of stakeholders, the last amendments concerning the partnership principle in Article 11 of Council Regulation (EC) No 1083/2006 (Council of the European Communities, 2006) further specify:

“/.../Each Member State shall organise, where appropriate and in accordance with current national rules and practices, a partnership with authorities and bodies such as:

- (a) the competent regional, local, urban and other public authorities;
- (b) the economic and social partners;
- (c) any other appropriate body representing civil society, environmental partners, non-governmental organisations, and bodies responsible for promoting equality between men and women.

Each Member State shall designate the most representative partners at national, regional and local level and in the economic, social, environmental or other spheres (hereinafter referred to as partners), in accordance with national rules and practices, taking account of the need to promote equality between men and women and sustainable development through the integration of environmental protection and improvement requirements./.../

The partnership shall cover the preparation, implementation, monitoring and evaluation of operational programmes. Member States shall involve, where appropriate, each of the relevant partners, and particularly the regions, in the different stages of programming within the time limit set for each stage.”

The main rationale for the inclusion of actors in addition to the Commission and central governments was to increase the effectiveness of the funds implementation: it was expected that this wider involvement would help generate projects eligible for funding, feed back local expertise into the process for planning purposes and build local development capacities (Batory & Cartwright, 2011).

The principle of partnership has developed in order to provide for more legitimacy and better co-ordination, while improving transparency. Furthermore, its application contributes to a better level of absorption and higher ownership among beneficiaries, to sustainability and long-term change, as well as to legitimacy and empowerment of stakeholders (Kelleher, Batterbury & Stern, 1999; ECAS, 2005; 2010).

The evolution in the development of the principle of partnership mirrors the development in the EU and the deepening of integration through the widening of the single market. More competence was delegated to the supranational level of governance, which has brought demands for more transparency and inclusion. The principle of partnership is viewed as the foundation of the EU efforts in ensuring better regulation and good governance, and this has spilled over into other policies and

principles (European Commission, 2001; European Social Fund Committee, 2007). In its guidelines for the cohesion policy of 2007-2013, the Commission shows itself to be a strong advocate for partnership that “applies not only to the economic agenda but also to the broader effort to involve citizens who, through the partnership and multilevel governance arrangements under which cohesion policy is managed, can become directly involved in the Union’s growth and jobs strategy” (ECAS, 2010, p.6).

Although the principle of partnership has been viewed as the main component of the structural funds and has gained a lot of credit for involving broader participation at all stages of EU funds, it has also been the object of growing criticism. Potential obstacles to its application have been outlined regarding the co-ordination and inclusion of partners, the lack of capacity and the potential resistance to its implementation (ECAS, 2010). In Germany, the principle has been defined as ‘irksome duty’, pointing to potential conflicts and irritation in the central government, which sometimes perceives the principle of partnership as an attempt by the Commission to by-pass the national level of governance (Bauer, 2002). In Portugal, the application has been resisted to some extent by the refusal to create regional authorities, which also points to the low level of capacity among non-state actors (Nanetti et al., 2004). In Greece, the application has been conditioned by the national context of political centralisation, weak civil society and clientilistic paternalistic networks (Getinis & Grigoriadou, 2004). In the EU-10 (new post-communist member states), the introduction of partnership was difficult due to the lack of resources and experience (Latvia) and often remained at a rather formal level (Lithuania and Slovakia) (ECAS, 2010). The extent of partnership in terms of vertical or horizontal relationships differed considerably across the 25 states in the 2000-2006 period.

The 1999 evaluation has shown evidence that there are significant differences in the participation of partners at different stages of the programming cycle and also significant variance of the arrangement across member states (Keheller et al., 1999). Although the partnership is seen to contribute to transparency and effectiveness of the process, there are various examples that exhibit limitations to the principle of partnership in terms of its governance and administrative function, but also in the inclusiveness of actors, CSOs in particular, and decentralisation and deconcentration of power.

The Commission agenda on introducing and sustaining the principle of partnership, therefore, is conditioned by various mediating factors (Marinov & Malhasian, 2006, p. 134; 138-143; Kelleher et al., 1999). Some of the factors build on the existing contextual background, while others deal with the preconditions of existing sustainable relations between the CSOs and the governments.

(1) External factors, related to the environment

- a. Funding programmes requiring and encouraging partnership
- b. Legislation requiring partnership
- c. Framework of CSO-government relations
- d. National policy encouraging partnership
- e. Clear and transparent criteria, procedures and requirements for selection of partners
- f. Decentralisation and local self-government
- g. Regionalisation, decentralisation and deconcentration of public administration
- h. Opportunities and traditions of influencing and participating in decision and policy making
- i. Relevant and publicly available information for the various stakeholders to ensure equal participation
- j. Feedback and reporting mechanisms
- k. The involvement of the European Commission as animators and regulators

(2) Internal factors, related to the partnership and partners

- a. Long-term nature of partnership and sustainable partnership structures
- b. Prior experience of partnership in working with EU and national programmes
- c. Technical, financial and institutional capacity of partnership and partners
- d. Organisational maturity
- e. Clear roles, organisation and rules of coordination

- f. Understanding of the role of partnership
- g. Mutual trust and readiness to cooperate
- h. Accommodation with national institutional, administrative and cultural traditions
- i. Level of development of civil society and CSOs.

A number of issues common to member states were further observed (Bache, 2000), such as the importance of prior partnership experience, the national institutional traditions, the existing models of governance and the role of partnership. Other studies point to the importance of the participation of the CSOs (CEE Bankwatch, 2005; SF Team for Sustainable Future, 2010, 2011a, 2011b) and claim that the CSOs can contribute to the efficient and transparent use of EU funds, together with the other stakeholders in committees for programming, implementation and monitoring of the funds and in environmental assessments of the funded programmes and projects.

Given the background related to the principle of partnership and the factors that determine the efficiency of its application, in the next section this article will go on to empirically explore the state of affairs in Bulgaria.

The application of the principle of partnership in Bulgaria: Challenges and opportunities

Bulgaria does not have a long tradition in the field of strategic planning and programming as specified in the EU policy making, which demands specific institutional and administrative capacity to perform on a national and municipal level, as well as the involvement of CSOs (Marinov, Garnizov & Georgiev, 2006). Preliminary attempts in this regard can be observed in programming the pre-accession funds of PHARE, ISPA, and SAPARD, and the first attempts at programming in 2002, when developing the National Development Plan (which has never been officially adopted), however, with limited success. Such an approach to governance appears as a concept mainly due to programmes and projects funded by foreign donors.

The idea of domestic adaptation to European rules and approaches to strategic planning as well as new institutional models is oriented towards bureaucratisation – impersonal decision making based on formal and transparent rules, beyond the arbitrary will of a certain official or empowered person. Thus, the European system is oriented towards effectiveness – the funds are allocated for certain activities, not to certain people (Kabakchieva, 2007). The long tradition of communist planning (Dimitrov, 2004) substantially differs from the process of planning and programming within the EU. The communist planning depends on the discretion of the leading party, which is focused on extensive development. In this type of planning, there is a succinct lack of a management cycle and efficiency indicators, there is no hierarchical sequence of decision-making with directives from the party state, and no horizontal linkages and delegated responsibilities. These together with the identified institutional deficiencies of the post-communist state above raise the issue of the capacity and efficiency of the process. Therefore, the application of partnership is a by-product of this path-dependent process and has implications on the preparation for participation in the Structural Funds and EU regional policy (Marinov & Malhasian, 2006).

Design, organisation and framework

The application of the partnership principle was regulated by the Regional Development Act of 1999 and was amended by the act of 2004. At the same time, special institutional structures, the district and regional development councils (though they are appointed by the Council of Ministers and with limited deconcentration functions) were established. At the initial stages of Bulgaria's preparation to participate in the EU cohesion policy and to absorb EU funds (1998-1999), the application of the partnership principle was more of an exception; the National Agricultural and Rural Development

Plan under SAPARD (1999-2000) is a case in point. At the later stages of the preparation for accession and participation in the EU cohesion policy, the partnership principle was incorporated in all relevant policy, legislative and guidance documents.

The main national legislation that defines the main structures, the distribution of responsibilities and the coordination functions is outlined in the Council of Ministers Ordinances 171, 173, 174/2002 (Open Society Institute – Sofia, 2011). The stipulations of these acts regulate the preparation of the National Development plan, specify the groups of partners and how they can participate. Most of these acts actually secured the central role of the national government. Within the text of Ordinance 171/2002⁷ regulating the formation of the various monitoring bodies, it is easy to see that state control was all but inevitable, since most members of the monitoring bodies represented the central government, which left little room for the inclusion of non-state actors (Nikolova, 2007; Yanakiev, 2010) and allowed for further centralisation of governance.

It deemed fatal that we allowed re-enforcing the sectoral approach in planning and in governance, which is already quite strong due to the centralised system in the state. But we further enhanced it with EU money. Each ministry became three times stronger, because of the EU money it manages/.../To me, it is highly unclear who decided that such a great share of the EU funds should be allocated to the state institutions themselves as direct beneficiaries. (Respondent not willing to be referenced on this)

The creation and elaboration of the fund management system for the 2007-2013 financial framework, as well as the overall programming process at national level and the application of the partnership principle in this process, were laid down in the Strategy for Bulgaria's Participation in the European Union Structural and Cohesion Funds. In this regard, a Coordination Council for the National Development Plan was established, and the overall responsibility for the coordination was given to a directorate at the Ministry of Finance, which was designated Managing Authority for the resources provided by EU Structural Funds and the implementation of the National Strategic Reference Framework. The various activities on the preparation and consultation of the National Development Plan 2007-2013 were assigned to the Agency for Economic Analysis and Forecasting (AEAF).

The requirements for the application of the partnership principle were incorporated in the methodological guidelines concerning the National Development Plan and the Operational Programmes, the working groups for each Operational Programme and the National Strategic Reference Framework. Since 2005, a number of public forums have been held to form a consensus on the National Development Plan and the drafts of the National Strategic Reference Framework 2007-2013 (Council of Ministers of Republic of Bulgaria, 2006). The texts of the Operational Programmes were also said to be drafted in application of the partnership principle. However, the principle of partnership is mostly stated rather than implemented in practice. Issues of formalism and lack of coordination and capacity determined the process.

The process was not very transparent or open to the citizens /.../ The Forum meetings did not manage to provoke public interest, and it is not clear what happened with the recommendations and proposals we made. There was no feedback or follow-up. (Balkan Assist)

During the previous programming, there was feudalisation in the respective ministries, each considering their Operational Programme as the most important one and needing most of the EU money. I am not certain if this is the approach to advance the country. (Former Deputy Minister)

The evidence from the empirical research exhibits problematic coordination, a lack of expertise and

7 Council of Ministers of Republic of Bulgaria, Ordinances data base in Bulgarian: http://pris.government.bg/prin/document_browser.aspx

a chaotic process of programming. There was no universal approach to strategic planning or document from which to stipulate the obligations and responsibilities and provide a general framework. Each working group in the respective ministry was developing a patch of strategic documents, whilst the coordination was largely formal. The decision making was seriously centralised, whereas the sub-national bodies claim that the municipal, district and regional development plans are mainly on paper without any substance.

Especially after 1990, we (in the ministries) do not know how to draft a strategic document/.../ There are no clear-cut and uniform guidelines /.../A document is being drafted without any harmonisation with other acts, as there are no such practices/.../We do not have the idea of strategic planning. /.../There is a lack of a uniform approach to policy making. There should be a law for strategic planning with overall uniform rules – period of programming, description of the process, framework of coordination. Otherwise, each ministry has its own pace of policy making and programming its agenda. There are numerous strategies and programmes in each ministry, but no co-ordinated policies in one sector. (Council of Ministers, Coordination of the National Programme for Reform 2020, former Coordination Council, Bulgaria)

It came to a point where there were more than 85 different strategies (by 2005, comment by the author), from which we tried to summarise the substance for the National Strategic Reference Framework and there was no substance. There were priorities without deadlines and programmes or any resources for implementation. (Agency for regional analysis and forecasts, now environmental NGO)

The lack of experience and capacity also resulted in ambiguity about the purpose and scope of programming documents. The National Development Plan was prepared in parallel to a National Strategic Reference Framework, thus, disrupting the programming logic, e.g. the initial widespread expectations that the National Strategic Reference Framework would be formulated on the basis of the operational programs. Furthermore, until the autumn of 2005 there was a lack of indicative distribution of financial resources among the programmes. (Marinov & Malhasian, 2006; Open Society Institute – Sofia, 2011)

[There was a] lack of experience and preliminary preparation /.../ [We were] unprepared – the state administration, which has the leading role and responsibility in the process (of programming), as well as the organisations themselves to participate effectively and qualitatively in the process. (Local and regional development NGO, Sofia)

We worked a lot with the organisations; it was obligatory for them to be included. The contribution was not quite substantial, not one of these organisations had the capacity, but in some aspects it was useful. /.../ It is essential how much you open the door, because there are organisations that only want to take part, but do not have the relevant capacity or expertise. Such organisations were not allowed, but most of the known ones were part of the debate. (Former Deputy Minister)

The problem was first in the preparation of the participants, and second, in the ability to listen each other. In my opinion, the discussions at all the stages of the process to a larger extent were formalistic. (National Association of the Municipalities in Bulgaria)

Actors and inclusion: procedure, criteria, practice

The guidelines for partnership identified the following partners to be included in the process of programming:

- (1) Government (administrative) partners:
 - a. Government institutions, ministries, and agencies
 - b. Regional and local authorities, representative of municipalities
- (2) Social and economic partners
 - a. Social and economic partners representative for the country (i.e. trade unions, employer and industrial organisations).
 - b. Non-governmental organisations representing important interest groups: equal opportunities; civil society; environmental protection; international movements; technology and innovation centres; professional associations and organisations, etc.
 - c. Research and education groups: rector's councils; the Academy of Sciences; leading universities; vocational training organisations; secondary education organisations; leading research institutions or their associations, etc.
 - d. Business: business associations and affiliates, leading companies operating in the country.

The criteria and mechanisms for partner identification and inclusion are laid down in a special partnership manual⁸ (Ministry of Finance of Republic of Bulgaria, 2004). The group of government authorities and regional and municipal representatives, as well as industrial organisations and trade unions, were easily identified because of their high profile and their participation in other forms pursuant to the Labour Code, the National Tripartite Council, etc. The other participants in the process were identified using certain criteria approved by the National Development Plan working group according to: representativeness; scope of interests; balanced distribution of interest groups; equal opportunities; civil society; environmental protection; international movements; professional associations and organisations; technology and innovation centres; balanced representation of social and economic partners. The group of CSOs falls within this category, i.e. the subject of an unspecified and overgeneralised selection approach. Due to their high profile, the first groups were automatically included in the consultation and programming process, whereas the rest were subject to selection criteria, which were not sufficiently detailed against the backdrop of no uniform mechanism for coordinating the interactions.

I was always cautious to send an email only to certain NGOs. Information days were organised, [there were] notices in the media, open invitations. Otherwise it is not possible to reach them. The whole communication was through the website and the information days (public campaign for the funds). (Former Deputy Minister)

The actual selection of participating CSOs was left to the National Development Plan working group. This working group was responsible for monitoring and coordinating the drafting of the Operational Programmes and included representatives of the Ministry of Finance (EU Funds Management Directorate), the Agency for Economic Analysis and Forecasting (AEAF), the relevant ministries and social and economic partners mandated by organisations, a total of 25. The Operational Programmes working groups were entrusted with the development of the relevant programme objectives and priorities. Their membership was similar, 25 people representing the leading ministries, the AEAF, the EU Funds Management Directorate and the social and economic partners. The relevant working groups were established by order of the respective Minister, who was also responsible for appointing the social partners.

⁸ The Socio-Economic Partnership in Bulgaria Methodological Guidance to the National Development Plan: <http://www.eufunds.bg/bg/page/23> in Bulgarian

With the perspective for membership come demands on a country's institutions and their *modus operandi*, as well as on a country's civil society and its associational forms (Nanetti et al., 2004). The integration process also makes it necessary for civil society to be engaged through new forms of participation that allow diverse organised groups to interact in both a formal and informal manner with policy making structures and, thus, become important actors in the formulation and implementation of policies. This precondition proves essential for the application of the principle of partnership.

However, the application of the partnership principle turns out to be more effective between the various central authorities, unlike in situations where local authorities, regional stakeholders or social and economic partners and CSOs participate. In its greater part, CSO participation was a result of their own activity, through forming coalitions and organising representation. The mechanisms for the appointment of CSO representatives were not clearly laid down despite the available criteria, and this creates the impression of a lack of transparency and of parity between the stakeholders. The lack of a transparent and uniform mechanism raises the question about certain arbitrariness in determining the manner of CSO participation and the insufficient development of the partnership mechanism.

As it stands, there is no clear mechanism of co-operation in the planning process; the possibilities for the participation of CSOs do not represent a sufficiently regulated and transparent selection mechanism. The organisations are left to organise themselves on their own.

All the other organisations and interest groups, we had to look for a way to involve them – for example, the regional and local associations, the professional organisations, the business associations, the environmental organizations. /.../ And it turned out that the state does not have a mechanism that would allow us to find such organisations and make a selection. (Council of Ministers, Bulgaria)

All the representatives of the state administration were there. It is another question how the communication with the economic and social partners happened /.../ the application of the principles was enforced top-down from the EU and was formalistic to a large extent. (Bulgarian Association of Regional Development Agencies)

Furthermore, according to Balkan Assist's study (Mihailov, 2005), at the central level the government still seems to communicate mainly with the so-called social partners (trade unions and employers, the Economic and Social Council), which the majority of civil society organisations consider to be part of the tripartite status-quo (BCNL, 2009). The elusive concept of representativeness is the main criteria applied when consultations are organised. The same approach was implemented when the partners in programming were identified. The Economic and Social Council was designed following the template of the European Social Committee, and to a large extent it transferred a rather tripartite model of consultations (Economic and Social Council Act, 2001), which is vastly seen as quasi-civic.

You cannot avoid presuming, especially when you look at the various implementation documents, that when organising the various working groups and discussions, it is easier to invite the usual suspects, i.e. the tripartite – the social partners. From there on /.../ (National Association of the municipalities in Bulgaria, Sofia)

The willingness to work with CSOs in the planning and programming process varies in the different government structures. This illustrates the lack of a uniform mechanism whereby this could happen and also places CSOs in a position of dependency on the 'good will' of certain administrative structures to apply the partnership principle. Thus, CSOs have to exert additional pressure to be included. Even though the legislative and institutional preconditions are there, the application of partnership in the

planning of regional and local development and the programming of structural funds remains weak. A great deal of criticism is aimed at the more general dialogue between the authorities and the non-governmental sector, mostly with regard to the inclusion mechanism (selection of representatives), the efficacy of procedures, the impact on decision making and the process transparency. The main deficiencies lie in the interactions between the administration and the social and economic partners; namely, the lack of clear selection procedures, the privileged access of certain organisations, and the restrictive approach to partner selection. All this affects the work in the relevant working groups and the engagement of civil society organisations in the process. This resulted in contradictions in including CSOs other than the social partners.

CSOs took part largely on a voluntary basis. If we take the nationally represented organisations that have been defined by law, they are automatically in. The other group, i.e. the CSOs, is more difficult (to define – added by the author). /.../As there is no legislative procedure, we developed our own. The door was always open /.../ (Ministry of Social Policy and Employment)

The mechanism (of selecting CSOs in the working groups during programming) is different for the different Operational Programme (OP). The individual Operational Programme teams define the potential beneficiaries, choose who represents them and invite them to the Monitoring Committee. If an organisation sees it was omitted from the process and considers itself representative, it can take initiative to be included. Each OP has its own arrangement on how to invite the partners to take part in programming and the Monitoring Committee. (Ministry of Finance, National Fund)

Data from the Civil Society Index for Bulgaria 2008-2010 shows a low level of inclusion of civil society organisations⁹ (Hristova-Kurzydłowski, 2011) in various forms of participation within the Structural Funds planning and management. The matter is further complicated, as the CSOs in Bulgaria are still struggling with building organisational and financial capacity and securing themselves as partners in decision and policy making (Hristova-Kurzydłowski, 2011, p.57; Kabakchieva & Hristova-Kurzydłowski, 2012). Though some legislation that allows CSOs participation in decision and policy making is in place and overall standards for consultations are adopted, it seems not to be enough to streamline routine public consultations subject to uniform rules (BCNL, 2009; Dimitrov, 2012). Furthermore, the lack of an overall binding framework to guide and facilitate the CSO-government relations leaves an amorphous area of partnership, making it subject to arbitrariness (BCNL, 2009; Hristova-Kurzydłowski, 2011; Dimitrov, 2012; Kabakchieva & Hristova-Kurzydłowski, 2012). This is conducive to the problematic application of the principle of partnership.

Challenges and opportunities

The process of programming the EU funds calls for serious domestic transformation in member states, especially in countries with post-communist institutional pathways. It requires serious administrative and strategic planning capacity and experience habituated as public policy making. The analysis above identifies some of the deficiencies that shape the main challenges in programming and the application of the principle of partnership in Bulgaria.

The EU formal rules in establishing a complex management system, administrative capacity and interactions between a wide circle of actors based on the principles of partnership, co-ordination, decentralisation and complementarity, have been filtered through domestic factors.

⁹ This study covers also the most active civil society organisations, which means that even they are excluded from the process.

On the other hand, however, through implementation of the principle of partnership (though not directly) the CSOs managed to trigger a debate on partnership in policy making and advocacy initiatives for an encouraging environment for further involvement of CSOs in decision making.

In general, the CSOs use the principle of partnership as a lever to open the national government to dialogue and consultation, especially when such mechanisms are non-existent prior to the EU. This energy has been capitalised in the attempts to influence the programming of the upcoming 2014-2020 period, where some changes have already been observed in the inclusion of the CSOs and the elaboration of a Strategy for the NGOs in Bulgaria. However, the issues of routine predictable civil dialogue, ensuring balanced participation with relevant information, follow-up and feedback still remain, making the policy making and CSO involvement an *ad hoc* occurrence rather than a habitual process of partnership. This brings up the question of institutional change and the nature of institutions in Bulgaria. Being still unaccountable and reproducing inconsistency and unpredictability in policy making generates arbitrariness and overall lack of responsibility. This is further magnified by the lack of a universal legal framework of consultation that leaves the other stakeholders excluded and further centralises the over-centralised approach to policy making in the country.

Conclusion

The aim of the article was to identify the internal challenges in Bulgaria that affect the implementation of the principle of partnership in programming the EU funds. The article builds upon the already increasing academic evidence on the limitations of the principle of partnership, especially in its transformative potential, thus, adding the dimension of another member state. It has been demonstrated that the application of the principle of partnership demands national adaptations and the transformation of rules, procedures and modes of governance that confront the informal constraints of the post-communist establishment.

The efficiency of the principle of partnership depends on the existence of clear-cut transparent mechanisms for coordination and implementation. This article illustrated critical junctures in the domestic adaptations of this principle. The entry of the main stakeholders was somewhat obstructed; the enforcement of certain rules was subjected to the 'good will' of the administration; the policy-making process has proven chaotic, disorganised and highly centralised, dependent on the executive government; there are significant capacity gaps among all stakeholders; the selection procedures were highly controversial and subject to criticism; the programming was lacking coordination and the documents resulted in patchwork without subordination, harmonisation and agreement. The identified challenges highlight the lack of a routinised, predictable policy-making process, which has led to limited domestic adaptation and transformation.

Deficiencies in the application of the principle of partnership in the programming of the EU funds in Bulgaria are indicative of the gaps in public policy making in the country (Karamfilova, 2010). In the short-term, the transformation as a result of Europeanisation resulted only in isolated change (Lessenski, 2012). The EU conditionality after accession seems to be even less transformative and more conditioned by the domestic factors. It remains to be seen whether it is due to the inefficiency of the design of the principle of partnership or because of the partially reformed post-communist society.

There is an increased number of positive examples of cooperation and involvement of non-state actors, which allows optimism for future development and for the involvement of the CSOs in the upcoming programming period in Bulgaria. However, further efforts in building capacities and structuring CSO-government relations are essential, as is the empowerment of sub-national bodies towards decentralisation, to ensure ownership of national policy making, and better management of EU funds to improve their positive impact on socio-economic development.

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Appendix 1: Profile of respondents in semi-structured interviews conducted May-July 2010/2012-2013

1. Ministry of Finance, National Fund, Expert
2. Former Deputy Minister of Finance
3. Former Deputy Minister of Public Administration and Administrative Reform
4. Ministry of Labour and Social Policy, Deputy Minister
5. Ministry of Labour and Social Policy, Expert
6. Council of Ministers, Secretariat of the Minister for EU Funds, former representatives of the Agency for Economic Analysis and Forecasts – 2 Experts
7. Former representative of the Agency for Economic Analysis and Forecasts, now part of an environmental CSO
8. Directorate National Development Plan
9. National Association of the municipalities in Bulgaria
10. Foundation for Local Government Reform
11. Bulgarian Association of Regional Development Agencies
12. Platform of community centres
13. Coalition for sustainable use of the EU funds
14. *Za Zemiata* NGO
15. Balkan Assist Association